

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Kenneth Duane SUMMERS,

Defendant.

Case No. **'15 MJ8210**

COMPLAINT FOR VIOLATION OF

Title 8, U.S.C., Section 1324(a)(1)(A)(ii)
Transportation of Illegal Aliens (Felony)

The undersigned complainant being duly sworn states:

On or about February 28, 2015, within the Southern District of California, defendant, Kenneth Duane SUMMERS, with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, Juan Manuel MARTINEZ-Rodriguez and Reynaldo SANCHEZ-Navarro, had come to, entered or remained in the United States in violation of law, did transport or move, or attempt to transport or move, said aliens within the United States in furtherance of such violation of law; in violation of Title 8, United States Code, Section 1324.

1 And the complainant states this complaint is based on the attached Statement
2 of Facts, which is incorporated herein by reference.
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6 CHRISTINA L. TAPIA
7 BORDER PATROL AGENT
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9 SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 2ND
10 DAY OF MARCH 2015.
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12 **PETER C. LEWIS**
13 _____
14 HON. PETER C. LEWIS
15 U.S. MAGISTRATE JUDGE
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PROBABLE CAUSE STATEMENT

I, Border Patrol Agent Kelly L. Murphy declare under penalty of perjury, the following is true and correct:

The complainant states that this complaint is based upon statements in investigative reports by Border Patrol Agent (BPA) S. Stypinski, that on February 28, 2015, Kenneth Duane SUMMERS (SUMMERS), an United States citizen, was arrested near Westmorland, California, while smuggling two undocumented aliens in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii).

On February 28, 2015, BPA Stypinski was conducting his assigned duties at the United States Border Patrol Highway 86 Checkpoint (checkpoint). At approximately 8:30 p.m., BPA Stypinski observed a black Volkswagen Jetta (Volkswagen) bearing California license plate 5ZZF518 approach the primary inspection area of the checkpoint. BPA Stypinski identified himself as a BPA and questioned the driver, later identified as SUMMERS, as to his citizenship. BPA Stypinski ascertained SUMMERS to be a citizen of the United States.

Simultaneously, BPA A. Miranda conducted a pre-primary inspection sniff of the vehicle utilizing his assigned Human/Narcotic Detector Dog (HNDD). The HNDD alerted to the Volkswagen's trunk. BPA Stypinski asked for consent to search the trunk in which SUMMERS gave consent. SUMMERS appeared to make an attempt to open the trunk but

failed to do so. After multiple failed attempts to open the Volkswagen's trunk, BPA Stypinski referred the Volkswagen and its occupants to the secondary inspection area.

At approximately 8:35 p.m., in secondary inspection area, BPA E. Hanna asked SUMMERS for consent to open the Volkswagen's trunk. SUMMERS opened the trunk to the Volkswagen. BPA Hanna approached the rear of the Volkswagen and encountered two individuals, later identified as Juan Manuel MARTINEZ-Rodriguez (MARTINEZ) and Reynaldo SANCHEZ-Navarro (SANCHEZ), lying down in the trunk. BPA Hanna identified himself as a BPA and questioned MARTINEZ and SANCHEZ as to their citizenship. BPA Hanna ascertained MARTINEZ and SANCHEZ to be citizens of Mexico who do not possess any immigration documentation to enter, be, or remain in the United States legally. SUMMERS and the two undocumented aliens were placed under arrest.

SUMMERS was read his rights per Miranda. SUMMERS stated he understood his rights and was willing to answer questions without the presence of an attorney. SUMMERS stated he was going to get paid approximately \$500.00 to \$1,000.00 USD to transport individuals from an unknown location to Los Angeles, California. SUMMERS stated he received a text message at approximately 4:00 p.m. with instructions on where to travel to pick up the individuals. SUMMERS stated he arrived at an ARCO Gas Station where two individuals were transferred to his Volkswagen from another vehicle. SUMMERS stated as he approached the checkpoint the two individuals entered the trunk.

Material Witnesses MARTINEZ and SANCHEZ stated they were going to pay between approximately \$5,800.00 to \$6,000.00 USD to be smuggled into the United States.

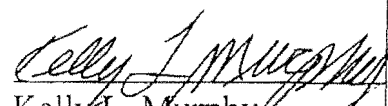
Material Witnesses MARTINEZ and SANCHEZ were each individually presented with a six-pack photographic line-up. MARTINEZ identified photograph number three as the driver of the Volkswagen. Photograph number three depicts SUMMERS.

The complainant states the names of the Material Witnesses are as follows:

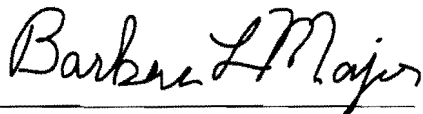
| <u>NAME</u> | <u>PLACE OF BIRTH</u> |
|--------------------------------|-----------------------|
| Juan Manuel MARTINEZ-Rodriguez | Mexico |
| Reynaldo SANCHEZ-Navarro | Mexico |

Further, complainant states that Material Witnesses, Juan Manuel MARTINEZ-Rodriguez and Reynaldo SANCHEZ-Navarro, are citizens of a country other than the United States; that said aliens have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial by subpoena; and that they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

Executed on March 1, 2015 at 8:00 a.m.


Kelly L. Murphy
Border Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 3 pages, I find probable cause to believe that the defendant named in this probable cause statement committed the offense on February 28, 2015 in violation of Title 8, United States Code 1324.



8:48 AM, Mar 1, 2015

Hon. Barbara L. Major
United States Magistrate Judge

Date/Time